

FILED
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The Honorable Ricardo S. Martinez

FEB 22 2023

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

DEVINARE ANTWAN PARKER,

Defendant.

No. CR20-84 RSM

PLEA AGREEMENT

The United States, through United States Attorney Nicholas W. Brown and Assistant United States Attorney Erin H. Becker of the Western District of Washington, and Devinare Antwan Parker and his attorneys Sara Brin and Dennis Carroll enter into the following Plea Agreement, pursuant to Federal Rule of Criminal Procedure 11(c)(1)(B).

1. **The Charge.** Defendant, having been advised of the right to have this matter tried before a jury, agrees to waive that right and enters a plea of guilty to the following charge contained in the Indictment: *Unlawful Possession of a Destructive*

1 *Device*, as charged in Count 1, in violation of Title 26, United States Code, Section
2 5861(d) and 5845(a)(8), (f)(2).

3 By entering plea of guilty, Defendant hereby waives all objections to the form of
4 the charging document. Defendant further understands that before entering any guilty
5 plea, Defendant will be placed under oath. Any statement given by Defendant under oath
6 may be used by the United States in a prosecution for perjury or false statement.

7 2. **Elements of the Offense.** The elements of the offense to which Defendant
8 is pleading guilty, *Unlawful Possession of a Destructive Device*, as charged in Count 1,
9 are as follows:

10 First, the defendant knowingly possessed a destructive device;

11 Second, the defendant was aware of the characteristics that made it a
12 destructive device; and

13 Third, the destructive device was not registered to the defendant in the
14 National Firearms Registration and Transfer Record.

15 3. **The Penalties.** Defendant understands that the statutory penalties
16 applicable to the offense to which Defendant is pleading guilty, *Unlawful Possession of a*
17 *Destructive Device*, as charged in Count 1, are as follows: A maximum term of
18 imprisonment of up to 10 years, a fine of up to \$250,000, a period of supervision
19 following release from prison of up to three years, and a mandatory special assessment of
20 \$100. If a probationary sentence is imposed, the probation period can be for up to five
21 years.

22 Defendant understands that supervised release is a period of time following
23 imprisonment during which Defendant will be subject to certain restrictive conditions and
24 requirements. Defendant further understands that, if supervised release is imposed and
25 Defendant violates one or more of the conditions or requirements, Defendant could be
26 returned to prison for all or part of the term of supervised release that was originally
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1 imposed. This could result in Defendant serving a total term of imprisonment greater than
2 the statutory maximum stated above.

3 Defendant understands that as a part of any sentence, in addition to any term of
4 imprisonment and/or fine that is imposed, the Court may order Defendant to pay
5 restitution to any victim of the offense, as required by law.

6 Defendant further understands that the consequences of pleading guilty may
7 include the forfeiture of certain property, either as a part of the sentence imposed by the
8 Court, or as a result of civil judicial or administrative process.

9 Defendant agrees that any monetary penalty the Court imposes, including the
10 special assessment, fine, costs, or restitution, is due and payable immediately and further
11 agrees to submit a completed Financial Disclosure Statement as requested by the United
12 States Attorney's Office.

13 Defendant understands that, if pleading guilty to a felony drug offense, Defendant
14 will become ineligible for certain food stamp and Social Security benefits as directed by
15 Title 21, United States Code, Section 862a.

16 **4. Immigration Consequences.** Defendant recognizes that pleading guilty
17 may have consequences with respect to Defendant's immigration status if Defendant is
18 not a citizen of the United States. Under federal law, a broad range of crimes are grounds
19 for removal, and some offenses make removal from the United States presumptively
20 mandatory. Removal and other immigration consequences are the subject of a separate
21 proceeding, and Defendant understands that no one, including Defendant's attorney and
22 the Court, can predict with certainty the effect of a guilty plea on immigration status.
23 Defendant nevertheless affirms that Defendant wants to plead guilty regardless of any
24 immigration consequences that Defendant's guilty plea may entail, even if the
25 consequence is Defendant's mandatory removal from the United States.

26 **5. Rights Waived by Pleading Guilty.** Defendant understands that by
27 pleading guilty, Defendant knowingly and voluntarily waives the following rights:

- a. The right to plead not guilty and to persist in a plea of not guilty;
- b. The right to a speedy and public trial before a jury of Defendant's peers;
- c. The right to the effective assistance of counsel at trial, including, if Defendant could not afford an attorney, the right to have the Court appoint one for Defendant;
- d. The right to be presumed innocent until guilt has been established beyond a reasonable doubt at trial;
- e. The right to confront and cross-examine witnesses against Defendant at trial;
- f. The right to compel or subpoena witnesses to appear on Defendant's behalf at trial;
- g. The right to testify or to remain silent at trial, at which trial such silence could not be used against Defendant; and
- h. The right to appeal a finding of guilt or any pretrial rulings.

6. **United States Sentencing Guidelines.** Defendant understands and acknowledges that the Court must consider the sentencing range calculated under the United States Sentencing Guidelines and possible departures under the Sentencing Guidelines together with the other factors set forth in Title 18, United States Code, Section 3553(a), including: (1) the nature and circumstances of the offense; (2) the history and characteristics of Defendant; (3) the need for the sentence to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense; (4) the need for the sentence to afford adequate deterrence to criminal conduct; (5) the need for the sentence to protect the public from further crimes of Defendant; (6) the need to provide Defendant with educational and vocational training, medical care, or other correctional treatment in the most effective manner; (7) the kinds of sentences available; (8) the need to provide restitution to victims; and (9) the need to

1 avoid unwarranted sentence disparity among defendants involved in similar conduct who
2 have similar records. Accordingly, Defendant understands and acknowledges that:

3 a. The Court will determine Defendant's Sentencing Guidelines range
4 at the time of sentencing;

5 b. After consideration of the Sentencing Guidelines and the factors in
6 18 U.S.C. § 3553(a), the Court may impose any sentence authorized by law, up to
7 the maximum term authorized by law;

8 c. The Court is not bound by any recommendation regarding the
9 sentence to be imposed, or by any calculation or estimation of the Sentencing
10 Guidelines range offered by the parties or the United States Probation Department,
11 or by any stipulations or agreements between the parties in this Plea Agreement;
12 and

13 d. Defendant may not withdraw a guilty plea solely because of the
14 sentence imposed by the Court.

15 7. **Ultimate Sentence.** Defendant acknowledges that no one has promised or
16 guaranteed what sentence the Court will impose.

17 8. **Statement of Facts.** The parties agree on the following facts. Defendant
18 admits Defendant is guilty of the charged offense:

19 a. During the late evening hours of May 31, 2020, in Seattle,
20 Washington, a large-scale public demonstration was occurring after the murder of
21 George Floyd. Because of the nature of the demonstration, the Seattle mayor had
22 declared a state of emergency and set a 5:00 p.m. curfew

23 b. At about 11:30 p.m., Seattle Police Department (SPD) Officer Molly
24 Accomando was driving a patrol car north on Third Avenue in Seattle,
25 Washington, with Sergeant Doug Raguso in the front passenger seat. As the two
26 drove north through the 1400 block of Third Avenue, they passed Defendant, who
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1 was out past the 5:00 p.m. curfew walking in the middle of the street along with
2 other people.

3 c. Sergeant Raguso got out of the patrol car, contacted Defendant, and
4 lawfully arrested him.

5 d. In a lawful search of Defendant incident to his arrest, law
6 enforcement officers located an improvised firearm on Defendant's person, as well
7 as several 12-gauge shotgun shells and a folding knife. The firearm was
8 constructed from two pieces of metal pipe. One piece of pipe was about eight to
9 ten inches long with a handle. A second piece of pipe, wider than the first, had
10 been fitted over it. This piece was capped, and a firing pin had been installed in the
11 cap. A small laser pointer/flashlight had been attached to the side of the firearm.
12 The firearm could be fired by placing a shotgun shell inside the smaller diameter
13 pipe and then slamming the larger capped pipe into it.

14 e. Defendant admits that this weapon was a firearm within the meaning
15 of federal law, 18 U.S.C. § 921(a)(3) and 26 U.S.C. § 5845(a)(8) and a destructive
16 device as defined in 18 U.S.C. § 921(a)(4) and 26 U.S.C. § 5845(f)(2), and that he
17 was aware of the characteristics of the device that brought it within those
18 definitions.

19 f. Neither this weapon nor any other firearm is registered to Defendant
20 in the National Firearms Registration and Transfer Record.

21 g. On May 31, 2020, Defendant knowingly possessed a destructive
22 device that was not registered to Defendant in the National Firearms Registration
23 and Transfer Record.

24 The parties agree that the Court may consider additional facts contained in the
25 Presentence Report (subject to standard objections by the parties) and/or that may be
26 presented by the United States or Defendant at the time of sentencing, and that the factual
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1 statement contained herein is not intended to limit the facts that the parties may present to
2 the Court at the time of sentencing.

3 **9. Sentencing Factors.** The parties agree that the following Sentencing
4 Guidelines provision applies to this case: Section 2K2.1(b)(3)(B), increasing the offense
5 level by two because the weapon is a destructive device.

6 The parties agree they are free to present arguments regarding the applicability of
7 all other provisions of the United States Sentencing Guidelines. Defendant understands,
8 however, that at the time of sentencing, the Court is free to reject these stipulated
9 adjustments, and is further free to apply additional downward or upward adjustments in
10 determining Defendant's Sentencing Guidelines range.

11 **10. Acceptance of Responsibility.** At sentencing, *if* the Court concludes
12 Defendant qualifies for a downward adjustment for acceptance of responsibility pursuant
13 to USSG § 3E1.1(a) and Defendant's offense level is 16 or greater, the United States will
14 make the motion necessary to permit the Court to decrease the total offense level by three
15 (3) levels pursuant to USSG §§ 3E1.1(a) and (b), because Defendant has assisted the
16 United States by timely notifying the United States of Defendant's intention to plead
17 guilty, thereby permitting the United States to avoid preparing for trial and permitting the
18 Court to allocate its resources efficiently.

19 **11. Sentencing Recommendation.** The United States agrees to recommend a
20 total term of incarceration to be imposed by the Court that is no longer than a sentence
21 within the guidelines range as determined by the Court at sentencing. Defendant may
22 recommend whatever sentence he deems appropriate. Defendant understands that these
23 recommendations are not binding on the Court and that the Court may reject the
24 recommendations of the parties and may impose any term of imprisonment up to the
25 statutory maximum penalty authorized by law. Defendant further understands that
26 Defendant cannot withdraw a guilty plea simply because of the sentence imposed by the
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1 Court. Except as otherwise provided in this Plea Agreement, the parties are free to
2 present arguments regarding any other aspect of sentencing.

3 **12. Forfeiture of Assets.** Defendant understands the forfeiture of property is
4 part of the sentence that must be imposed in this case. Defendant agrees to forfeit to the
5 United States his right, title, and interest in any and all firearms, destructive devices, and
6 associated ammunition that facilitated his commission of *Unlawful Possession of a*
7 *Destructive Device*, as charged in Count 1, in violation of Title 26, United States Code,
8 Section 5861(d). The firearm, destructive device, and associated ammunition include, but
9 are not limited to, an improvised firearm and several 12-gauge shotgun shells seized from
10 Defendant on May 31, 2020. Such property is forfeitable pursuant to Title 26, United
11 States Code, Section 5872.

12 Defendant agrees to fully assist the United States in the forfeiture of the above-
13 identified firearms and any associated ammunition and to take whatever steps are
14 necessary to pass clear title to the United States, including but not limited to surrendering
15 title and executing any documents necessary to effectuate their forfeiture. Defendant
16 agrees not to file a claim, or to assist any third party in filing a claim, to any of the listed
17 firearms or associated ammunition in any forfeiture proceeding, administrative or
18 judicial, that may be initiated.

19 **13. Abandonment of Property.** Defendant also agrees that, if any federal law
20 enforcement agency seized any illegal contraband that was in Defendant's direct or
21 indirect control, Defendant consents to the administrative or judicial disposition, official
22 use, and/or destruction of that contraband by the United States.

23 Defendant also agrees to abandon any interest he may have in any firearms,
24 firearms accessories (e.g., magazines, cases, bags, scopes, slings, sights, etc.), destructive
25 devices, or ammunition that were seized. He consents to the administrative or judicial
26 disposition, official use, and/or destruction of all such firearms, firearms accessories,
27 destructive devices, and ammunition by the United States.

1 **14. Non-Prosecution of Additional Offenses.** As part of this Plea Agreement,
 2 the United States Attorney's Office for the Western District of Washington agrees not to
 3 prosecute Defendant for any additional offenses known to it as of the time of this Plea
 4 Agreement based upon evidence in its possession at this time, and that arise out of the
 5 conduct giving rise to this investigation. In this regard, Defendant recognizes the United
 6 States has agreed not to prosecute all of the criminal charges the evidence establishes
 7 were committed by Defendant solely because of the promises made by Defendant in this
 8 Plea Agreement. Defendant agrees, however, that for purposes of preparing the
 9 Presentence Report, the United States Attorney's Office will provide the United States
 10 Probation Office with evidence of all conduct committed by Defendant.

11 Defendant agrees that any charges to be dismissed before or at the time of
 12 sentencing were substantially justified in light of the evidence available to the United
 13 States, were not vexatious, frivolous or taken in bad faith, and do not provide Defendant
 14 with a basis for any future claims under the "Hyde Amendment," Pub. L. No. 105-119
 15 (1997).

16 **15. Breach, Waiver, and Post-Plea Conduct.** Defendant agrees that, if
 17 Defendant breaches this Plea Agreement: (a) the United States may withdraw from this
 18 Plea Agreement and Defendant may be prosecuted for all offenses for which the United
 19 States has evidence; (b) Defendant will not oppose any steps taken by the United States
 20 to nullify this Plea Agreement, including the filing of a motion to withdraw from the Plea
 21 Agreement; and (c) Defendant waives any objection to the re-institution of any charges
 22 that previously were dismissed or any additional charges that had not been prosecuted.

23 Defendant further understands that if, after the date of this Plea Agreement,
 24 Defendant should engage in illegal conduct, or conduct that violates any conditions of
 25 release or the conditions of confinement (examples of which include, but are not limited
 26 to, obstruction of justice, failure to appear for a court proceeding, criminal conduct while
 27 pending sentencing, and false statements to law enforcement agents, the Pretrial Services


1 Officer, Probation Officer, or Court), the United States is free under this Plea Agreement
2 to file additional charges against Defendant or to seek a sentence that takes such conduct
3 into consideration by requesting the Court to apply additional adjustments or
4 enhancements in its Sentencing Guidelines calculations in order to increase the applicable
5 advisory Guidelines range, and/or by seeking an upward departure or variance from the
6 calculated advisory Guidelines range. Under these circumstances, the United States is
7 free to seek such adjustments, enhancements, departures, and/or variances even if
8 otherwise precluded by the terms of the Plea Agreement.

9 **16. Voluntariness of Plea.** Defendant agrees that Defendant has entered into
10 this Plea Agreement freely and voluntarily, and that no threats or promises were made to
11 induce Defendant to enter a plea of guilty other than the promises contained in this Plea
12 Agreement or set forth on the record at the change of plea hearing in this matter.

13 **17. Statute of Limitations.** In the event this Plea Agreement is not accepted by
14 the Court for any reason, or Defendant breaches any of the terms of this Plea Agreement,
15 the statute of limitations shall be deemed to have been tolled from the date of the Plea
16 Agreement to: (1) thirty (30) days following the date of non-acceptance of the Plea
17 Agreement by the Court; or (2) thirty (30) days following the date on which a breach of
18 the Plea Agreement by Defendant is discovered by the United States Attorney's Office.

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DEVINARE ANTWAN PARKER
Defendant

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